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Application No.: 09/744,772

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Docket No.: 136922002700
Client Ref. No.: C005**REMARKS****Rejections**

This paper is submitted under rule 116.

Claims 1, 2, 7, 8, 11-13, 18, 19, 26 and 31-38 stand rejected under § 102 as anticipated by Schylander.

Claims 3, 10, 14, 21, 25 and 30 stand rejected under § 103 as unpatentable over Schylander and further in view of Maeda.

The remaining dependent claims are indicated as being allowable if rewritten in independent form.

Schylander § 102 Rejection Traversed

The § 102 rejection citing Schylander is traversed on the grounds that Schylander does not meet the present claims, and was somewhat mischaracterized by the Examiner. In the Office Action page 2, last paragraph, the Examiner stated in pertinent part:

Schylander et al discloses the copy protection method comprising rendering selected control data incorrect [column 5, lines 51-67]. Schylander et al discloses that the selected control data being ignored by an audio player, such that an audio player is able to play the audio data [column 4, line 45 to column 5, line 31], whereas the incorrect data negatively effects the playability of the audio data in a data reader...[column 4, line 45 to column 5, line 33].

This analysis contains several mischaracterizations of the reference. First, Schylander is not a copy protection method. There is no mention of copy protection or copy prevention in Schylander. Instead Schylander is directed to the different technical problem disclosed in his Background of the Invention at column 1, beginning line 40:

When additional (CD-I) information is recorded in the main channel of a CD-audio disc, it is prevented from being reproduced as audio information because it results in the production of noise....

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Another disadvantage of a CD-I disc, as prescribed by the present version of the CD-I standard, is that the first track must be a CD-I track.... This may result in the ordinary user being confused....

Note that there is no mention here of copy prevention or copy protection or anything to do with copying. Instead these are playability problems due to CD-I discs creating noise and being confusing to users. Hence not only does Schylander not address the same technical problem as does the present invention, Schylander does not meet the portion of, for instance, Claim 1 which says "the copy protection method comprising...". Clearly there is no copy protection in Schylander, hence it lacks this aspect of Claim 1.

Next, the Examiner says as quoted above "Schylander et al discloses the copy protection method comprising rendering selected control data incorrect [column 5, lines 51-67]." This is not a correct characterization. Not only is Schylander not a copy protection method, there is no disclosure by him in this passage of control data alteration. Instead this passage of Schylander is directed to preventing reproduction of noise, which as indicated above is one of the technical problems addressed by Schylander, see column 5, beginning line 51:

Another solution is to prevent the reproduction of noise caused by the play-back of the additional (CD-I) information in the extended prepart PP1* is to provide a CD-audio player having a unit for inhibiting a jump.... It is also possible to prevent the undesired production of noise by determining on the bases of the subcode information whether the part in the extended prepart PP1* with the additional (CD-1) information is read out.

Thus this passage discloses merely ways of preventing noise. There is no copy protection here. Further, it is not seen where there is any rendering of control data to be incorrect here. Instead, the first solution in this passage inhibits the jump, and the second solution determines whether the extended prepart is read out or not. It is not seen where this involves rendering selected control data incorrect, hence the Examiner mischaracterized the reference when he said it met the part of Claim 1 which is "rendering selected control data incorrect."

Next, it is respectfully submitted that the Examiner mischaracterized Schylander in terms of how it operates on the disc players.

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It is understood by the Examiner that in accordance with the present invention, reliance is made on the difference between audio players and data readers. A relevant distinction is that the audio player plays audio data only from a compact disc while the data reader, as recited in Claim 1, "is enabled to read data and process information from each section of the compact disc." This is the technical distinction upon which the present method relies.

This distinction however is not shown or even suggested in Schylander. Schylander instead describes two types of playback devices. The first device is the audio player as called by Schylander, identical with the usage in the present application. It is well understood that an audio player does not read each disc sector but ignores certain sectors and basically plays only the audio information.

The distinction between the "data reader" in the present application and the second device which is the "special player" in Schylander is relevant but ignored by the Examiner. The Examiner apparently identifies the data reader in the present claims with the dedicated player or special player in Schylander. For instance, Schylander identifies this dedicated player at column 1, line 59 and 60 "...a dedicated player which uses the additional information for control of reproduction...". This dedicated or special player is unique to Schylander and he regards it as inventive, see column 3, lines 9 and 10 pointing out that his Fig. 4 shows this player according to the Schylander invention. Note also the Schylander patent title "...Apparatus for Reading and/or Reproducing...". This apparatus is further described at column 6, lines 66 carrying over to column 7. The distinctive feature is that the Schylander special player includes the search unit 44 and adaptations to the control unit 43. The process carried out by the player control unit 43 in the special or dedicated player is shown in Schylander Fig. 5. Moreover, Schylander actually claims his purportedly inventive player, see his Claim 11 "An apparatus for reproducing certain information included in the record carrier...". See Schylander also Claims 14, 16, 21, etc., all claiming the purportedly inventive playback apparatus which is thereby obviously regarded by Schylander as inventive. Hence while this is a "special player," it is not "a data reader" as recited in Claim 1. The Schylander special player may be able to read each sector of the compact disc, but it also has other special features and is not at all a standardized type device of the type readily available.

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Note that the technical problem to which the present application is addressed is that the widely available "data readers" as identified in the present application are useful for illicit copying of material from CDs. The point is to prevent such copying by these readily available readers. Instead, Schylander proposes a special type of player which is inherently not widely available and which he had to invent. This fails to meet the "data reader" of Claim 1.

Moreover, the Examiner said that Schylander further meets Claim 1 because Schylander discloses, see Office Action, top of page 3 "whereas the incorrect data negatively effects the playability of the audio data in a data reader...". The Examiner cites Schylander column 4, lines 45 to column 5, line 33. However it is not seen how this is the case in Schylander, and hence it is believed the Examiner here mischaracterized Schylander. Instead in Schylander, see column 4, line 45 "When a CD-I disc is loaded into a usual CD-audio player, the player will detect, on the basis of the table of contents TOC, that the disc loaded is a CD-I disc. In response to such a detection, some types of CD-audio players will inhibit the read-out of the program area PA of the CD-I disc." This is not due to incorrect control data; it is inherent in CD audio players not being fully compliant with CD-I discs. Note that Schylander states that this happens with CD audio players, not with data readers.

Hence there is no reason to think that Schylander would provide the result recited in the final clause of Claim 1 "confuses the data reader which is thereby prevented from satisfactorily playing the CD-DA." To the contrary, Schylander provides his special player which would satisfactorily play a CD-I type disc.

Hence for all of these various reasons Schylander fails to meet or even make obvious Claim 1.

The claims dependent upon Claim 1 which stand rejected distinguish over the reference for at least the same reasons as Claim 1.

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Further the remaining independent claims which are Claims 8, 12, and 19, similarly distinguish over Schylander for at least the same reasons as Claim 1. The claims dependent thereon are similarly allowable.

The Examiner's citation of Maeda in combination with Schylander in rejecting certain of the dependent claims is similarly traversed because the dependent claims distinguish for at least the same reasons as the respective independent base claims. Moreover, Maeda clearly does not meet the relevant aspects of Claim 1 and thus fails to make good any of the deficiencies in Schylander pointed out above in meeting the independent claims. For instance, Maeda is also not a copy protection method, and instead is directed to a purportedly novel recording/reproducing device, see Abstract.

The Examiner is thanked for his indication of the allowability of the remaining claims. However these have not been put in independent form.

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In view of the above, all pending claims are believed to be an immediate condition for allowance, in addition to those claims earlier indicated by the Examiner as reciting allowable subject matter. Accordingly the Examiner is respectfully requested to withdraw the outstanding rejection of claims and pass this application to issue. The Examiner is requested to telephone the undersigned if it would expedite prosecution, at the number given below.

In the event the USPTO determines a further extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this paper to Deposit Account No. 03-1952 referencing Docket No. **136922002700**.

Rule 34

This paper is filed under Rule 34; the correspondence address for this application remains that of Macrovision Corporation.

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Respectfully submitted,

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